

Senator John Kerry
Statement for IFQ Hearing
May 2, 2001

Good morning and welcome. I want to thank all of our witnesses for being here this morning. Many of you have traveled great distances and I am grateful that you have taken the time, and the expense, of coming to Washington to share your experiences and views on Individual Fishing Quotas (IFQs). First, I would like to recognize Chairman Snowe for introducing legislation this Congress, S. 637, the IFQ Act of 2001, which will help focus our national discussion of IFQs and other quota-based management systems during the Magnuson-Stevens Fishery Conservation and Management Act reauthorization process.

Last Congress the Subcommittee held a number of hearings around the country seeking regional views on the reauthorization of the Magnuson-Stevens Act. One of the issues that was clearly identified for further detailed discussion was IFQs and related management tools. Since the early 1990s, IFQs have sparked considerable controversy, which resulted in a legislative moratorium initiated in 1996 with the passage of the Sustainable Fisheries Act (SFA). Much of this controversy persists today and will be reflected in the testimony from members of the fishing industry from New England, the Gulf, the Pacific Northwest, and Alaska.

While there is not a Massachusetts fisherman on the panel, we have been consulting with them and will ensure any testimony they submit is included in the record. In general, they -- like many small fishing communities -- object to adopting IFQs in their fisheries because they believe the Council process will treat them unfairly in any initial allocation. Furthermore, they strongly fear that IFQs would result in consolidation or “corporatization” of their fisheries -- as in the surf clam fishery -- and change the very fabric of their communities. We need to be very aware of their position in this debate.

Since passage of the SFA, the National Research Council (NRC) has provided a report to Congress on the national policy issues relating to IFQs. One of the panelists, Dr. Michael Orbach, will be here to discuss the NRC’s findings and recommendations. The 5 years that has elapsed since SFA was enacted have also allowed evaluation of fishery management needs and the effectiveness of all our management tools, including IFQs. Dr. Jon Sutinen of the University of Rhode Island will be here to present the state of knowledge on fishery management methods -- and how to harness this information to evaluate IFQs.

Since the legislative moratorium has been extended until the end of next year, we now have the opportunity to look closely at IFQs during reauthorization of the Magnuson-Stevens Act. We know that the Council

Chairs as well as the National Governors' Association have asked for an end to the moratorium so that managers can use IFQs as appropriate in some fisheries. The NRC Report recommended the same, but also laid out the many concerns and issues that may arise from the use of IFQs in the complex world of fisheries management. One of the Council Chairs, Kay Williams, will be here to discuss the Gulf Council's point of view, and we look forward to hearing about the potential use of IFQs in the Gulf red snapper fishery. The challenge we will face is separating the national issues from the regional issues, and then ensuring that any approach Congress endorses also provides adequate protections demanded in any given region -- for example, the strong concerns among New England fishermen and fishing communities. I agree that IFQs are not the "silver bullet" for all fishery management problems.

I particularly look forward to hearing testimony on the proposed legislative criteria contained in S. 637. Last year, Senator Hollings and I introduced a Magnuson-Stevens Act reauthorization proposal that contained a similar attempt to open discussion on the topic of IFQs. The IFQ provisions of that bill, like S. 637, built on the NRC report recommendations as well as testimony before the Subcommittee. While it contained protections for fishermen and fishing communities who oppose the use of these tools in their fishery, it was also intended to provide sufficient flexibility for the councils to implement quota-based

management as appropriate. Because time was too short to address the issues before the close of the Congress, we were not able to consider the proposal and the moratorium was extended until 2002.

As we move forward with S. 637 this Congress, I plan to work with Senator Snowe and other Subcommittee members like Senator Stevens, Senator Hollings, and Senator Breaux to devise national criteria for quota management systems – whether IFQs, fishery cooperatives, or community or area quotas – that can meet regional needs. Like Senator Snowe I recognize that allocation issues are the most contentious, divisive and potentially destructive decisions a regional council can make; use of a referendum is one way to ensure that fishermen broadly support any IFQ program that is submitted to the Secretary. However, I am also interested in alternative ways of improving confidence in the fairness of Council decisions, and ensuring that IFQs and other quota systems contain protections against consolidation, improve the conservation record of our fisheries, and do not result in windfall profits at the expense of our taxpayers. For instance, should there be an independent review board for IFQ allocation and fairness issues?

In particular, I am interested in how quota management tools like IFQs and fishery cooperatives compare with our existing management tools. Today non-IFQ fisheries struggle with substantial and costly

problems -- huge regulatory discards, fishery data gaps, inadequate enforcement, and overcapacity. Right now the New England Council is struggling to reduce mortality in the groundfish fishery by preventing entry of latent permits. One proposal would devalue permits that have not fished for groundfish in the last few years. Like an initial allocation of quota for an IFQ, this is a very contentious and emotional issue (despite the availability of \$10 million for a latent buyout) in a fishery already closely restricted by days-at-sea and trip limits. So we are struggling with the same issues even in the context of a limited entry fishery, rather than an IFQ. There is also tremendous concern over consolidation through permit stacking in the scallop fishery. I would like to hear whether issues such as initial allocation and consolidation are of concern in all limited entry systems -- should we also be monitoring the existing systems better? I know many fishermen would say “YES!”

We should also ask how quota systems like cooperatives and community quotas could help fishermen as fishery management becomes increasingly complex. Are they useful in a multispecies fishery? As we move toward ecosystem management, these types of issues become more important -- we need to know what type of ecosystem management tools will most effectively meet the needs of managers, scientists, fishermen and the Nation. We also need to know if there are certain fisheries that are best designed for, or merit, having an IFQ or other quota system more than

others. Should we have incentives so that compliance with SFA mortality or bycatch reduction is a prerequisite for implementation of any new, potentially lucrative, system such as IFQs? If not, as one fishermen in Massachusetts told me, “All you are doing is rewarding the bad guys!”. These and other issues need to be examined prior to the allocation of a public resource.

The nature of the property right is a very important question the NRC said we should address; expiration of the quota after 5 years, as S. 637 proposes, is one way to do that. It seems appropriate that IFQ participants also pay “rent” for the privilege of being guaranteed a certain portion of a public resource for a specified period. Should Congress mandate fees, or allow the Councils to decide? I am particularly troubled by the questions posed by processor IFQ shares when processors do not share any of the burdens or responsibilities of fishery management. Should processors also be regulated like fishermen? I think that’s a fair question. Processor allocation and protections also pose antitrust concerns that will need to be evaluated carefully -- I know my fishermen would strongly oppose any attempt by the government to tie fishermen to a specific processor. They believe that as individuals they bear far more marketplace risk than processors, particularly in a seasonal or derby fishery.

I am also interested in how an IFQ or other quota system affects – or

is affected by – a fishery with excess capacity. Whatever we do, the tools we authorize must ensure the sustainability of a fishery, which has many benefits, from economic security to safety. When a fishery is marginally profitable because of excess capacity, then fishermen defer maintenance on their vessels and their emergency equipment. I am also eagerly awaiting NMFS' report on fishing capacity, a draft of which I understand finds that half of US fisheries exhibit signs of excess capacity.

Finally, while our panels will provide excellent advice to the Committee, it will be necessary at some point to obtain the views of the current Administration. I realize until the transition is complete that this may be difficult, but nevertheless we look forward to obtaining their comments. I wish again to commend Chairman Snowe for introducing this legislation and thank her for calling this hearing. I look forward to our witnesses' testimony.